

Monkfish Amendment 2

The New England and Mid-Atlantic Fishery Management Councils (Councils) submitted Amendment 2 to the Monkfish Fishery Management Plan for Secretarial review on December 9, 2004. The Councils developed Amendment 2 to address a number of issues that arose out of the implementation of the original FMP, as well as issues that were identified during public scoping. Issues arising from implementation of the original FMP include: The displacement of vessels from their established monkfish fisheries due to restrictive trip limits; unattainable permit qualification criteria for vessels in the southern end of the range of the fishery; discards (bycatch) of monkfish due to regulations (i.e., minimum size restrictions and incidental catch limits); and deficiencies in meeting Magnuson-Stevens Act requirements pertaining to protection of Essential Fish Habitat (EFH) in accordance with the Joint Stipulation and Order resulting from the legal challenge American Oceans Campaign, et al. v. Daley. Issues arising from public scoping include: Deficiencies in meeting Magnuson-Stevens Act requirements, including preventing overfishing and rebuilding overfished stocks; a need to improve monkfish data collection and research; the need to establish a North Atlantic Fisheries Organization (NAFO) exemption program for monkfish; multiple vessel baseline specifications for limited access monkfish vessels; a need to update environmental documents describing the impact of the FMP; and a need to reduce FMP complexity where possible. If adopted, Amendment 2 would implement the following measures:

- Closure of Oceanographer and Lydonia Canyons to vessels fishing on a monkfish day-at-sea (DAS);
- A 6-inch roller gear restriction for monkfish trawl vessels fishing in the Southern Fishery Management Area (SFMA);
- Establishment of an offshore monkfish fishery in the SFMA;
- A new limited access monkfish permit for vessels fishing in the southern range of the fishery;
- Cooperative research initiatives, including a research DAS set-aside program;
- A NAFO Regulated Area Exemption Program;
- Revisions to monkfish incidental catch limits;
- A decrease in the minimum monkfish size in the SFMA to 11 inches tail length;
- Removal of the 20-day block requirement;
- An opportunity to revise a limited access monkfish vessel's permit baseline characteristics; and
- Three new frameworkable measures: A monkfish DAS Leasing Program; measures to minimize the impact of the fishery on endangered or protected species; and measures to implement bycatch reduction devices.

A summary of these proposed measures is provided below. However, a full description of the proposed measures is contained in the Amendment 2 document, which is available by contacting the New England Fishery Management Council at (978) 465-0492, or on their website at www.nefmc.org/monk/planamen/final_planamen2.html.

CLOSURE OF OCEANOGRAPHER AND LYDONIA CANYONS

Vessels fishing on a monkfish DAS would be prohibited from fishing in the Oceanographer and Lydonia Canyons, as defined in the regulations, regardless of gear used. This measure is being proposed to minimize, to the extent practicable, the adverse impact of monkfish fishing on EFH, especially due to the potential impacts associated with an expansion of the directed offshore monkfish fishery under the Offshore Southern Monkfish Program proposed in this rule.

SFMA ROLLER GEAR RESTRICTION

Amendment 2 proposes to restrict the diameter of roller gear used on trawl net vessels when fishing in the SFMA. The roller gear on all trawl vessels fishing under a monkfish DAS would be restricted to a maximum diameter of 6 inches to minimize, to the extent practicable, the adverse impact of trawl fishing in the SFMA on EFH. This measure is specific to the SFMA, since it would help ensure that trawl vessels, which are known to be able to target monkfish more successfully with smaller roller gear in the SFMA than in the Northern Fishery Management Area (NFMA), do not fish in areas of more complex bottom characteristics, including the offshore canyon areas.

OFFSHORE FISHERY PROGRAM IN THE SFMA

Amendment 2 would establish an offshore monkfish fishery program that would allow vessels to elect to fish under a monkfish trip limit of 1,600 lb (tail weight) when fishing in the Offshore Fishery Program Area, under specific conditions, regardless of the trip limit that would otherwise be applicable to that vessel. For a vessel electing to fish in this program, monkfish DAS would be pro-rated based on a trip limit ratio (the standard permit category trip limit applicable to non-program vessels fishing in the SFMA, divided by 1,600 lb (the trip limit specified for vessels fishing in the program)), multiplied by the monkfish DAS available to the vessel's permit category when fishing in the SFMA.

Vessels electing to fish in this program would be required to fish under the program rules for the entire fishing year and would receive a separate monkfish permit category (Category F). A vessel electing to fish in this program would be allowed to fish its monkfish DAS only within the Offshore Fishery Program Area from October through April. In addition, vessels would be prohibited from fishing on a monkfish DAS outside the program area. Enrolled vessels would be required to have on board a VMS that is operational during the entire October through April season. Vessels in this program would also be subject to the gear requirements applicable to monkfish permit Category A and B vessels.

The Offshore Fishery Program is being proposed to help restore the offshore monkfish fishery by addressing the disapproval of the "running clock" in the original FMP. The running clock provision proposed in the original FMP would have provided vessels with the ability to account for any trip limit overages, provided that the vessel let its monkfish DAS clock run upon returning to port to account for these overages. Without the running clock provision, vessels have been discouraged from fishing in offshore areas under the current restrictive trip limits. Any vessel not electing to fish under this program would still be allowed to fish in the Offshore

Fishery Program Area under the rules and regulations applicable to non-program vessels. This program is intended to provide flexibility to the fishing industry without impacting the mortality objectives of the FMP.

NEW LIMITED ACCESS PERMIT FOR VESSELS AT THE SOUTHERN END OF THE FISHERY

Amendment 2 would provide an opportunity for a non-limited access monkfish vessel to qualify for a new limited access monkfish permit if it could demonstrate that it had monkfish landings from the area south of 38°00' N. latitude during the qualification period March 15 and June 15, for the years 1995 through 1998. Two permits would be available, depending on the amount of monkfish the vessel landed during the qualification period (the same landings levels that were required for the original monkfish limited access permits). Vessels that could demonstrate that they landed at least 50,000 lb, tail weight equivalent, of monkfish during the qualification period would qualify for a monkfish limited access Category G permit, and vessels that demonstrate that they landed at least 7,500 lb, tail weight equivalent, of monkfish during the qualification period would qualify for a monkfish limited access Category H permit. Vessels qualifying for a Category G or H permit would be restricted to fishing on a monkfish DAS south of 38°20' N. latitude (the initial line was established at 38°00' N. latitude but revised to 38°20' N. latitude in response to sea turtle protection measures).

This modification to the qualification criteria is being proposed to provide a renewed opportunity to qualify for a limited access monkfish permit since some vessel owners who claim that they were not adequately notified of the monkfish control date established on February 27, 1995. Because many vessels fishing in the southern range of the monkfish fishery do not possess other Federal Northeast (NE) permits, many of them claim they did not receive timely notice of the monkfish control date. Furthermore, the southern boundary of the monkfish fishery management unit was initially proposed as the VA/NC border, rather than the NC/SC border, leading some to believe that the FMP did not affect them. Modification to the limited access monkfish permit qualification criteria is being proposed to address these concerns.

COOPERATIVE RESEARCH INITIATIVE PROGRAMS

Amendment 2 proposes two programs that would encourage vessels to engage in cooperative research, including, but not limited to: Research to minimize bycatch and interactions of the monkfish fishery with sea turtles and other protected species; research to minimize the impact of the monkfish fishery on EFH; research or experimental fisheries for the purpose of establishing a monkfish trawl exempted fishery (under the NE Multispecies FMP) in the NFMA; research on the biology or population structure and dynamics of monkfish; cooperative surveys; and gear efficiency.

A pool of 500 DAS would be set aside to distribute to vessels to engage in cooperative research projects. These DAS would be created by removing 500 DAS from the total available monkfish DAS prior to distribution to individual vessels. This reduction would amount to less than 1 DAS deducted for each individual vessel allocation. Should this program be approved, and individual

DAS allocations changed because of this approval, vessel owners would be notified of their new monkfish DAS allocation.

Under the first research program, NOAA Fisheries would publish an RFP and vessels would submit competitive bids to participate in specific research or survey projects. NOAA Fisheries would then convene a review panel composed of the Council members from the Councils' Monkfish Oversight Committee, the Council's Research Steering Committee, and other technical experts to review the proposals. NOAA Fisheries would consider the recommendations of each panel member and award the contracts to successful applicants, including a distribution of DAS from the set-aside pool.

Any of the 500 DAS not distributed through the RFP process would be available to vessels through a second program, i.e., the existing EFP process, on a first-come-first-served basis. Under this second program, vessels applying for an EFP would indicate the number of monkfish DAS they would require to complete their research project. NOAA Fisheries would then review the EFP application and, if approved, issue the permit exempting the vessel from monkfish DAS usage requirements. The total number of monkfish DAS that could be used in the two programs (distributed under the RFP process or used in the exemption program) could not exceed the originally established 500 DAS annual set-aside pool. For any DAS requested that exceed the analyzed 500 DAS set-aside, the applicant would be required to prepare an Environmental Assessment for the additional DAS exemption request.

These two research programs are being proposed for the purpose of expanding incentives to participate in a range of monkfish research and survey activities by reducing costs associated with research, and to streamline the EFP process.

NAFO REGULATED AREA EXEMPTION PROGRAM

Amendment 2 proposes an exemption from certain FMP regulations for vessels that are fishing for monkfish under a High Seas Permit in the NAFO Regulated Area and transiting the Exclusive Economic Zone with monkfish on board or landing monkfish in U.S. ports. Similar to the NAFO waters exemption in the NE Multispecies FMP, monkfish vessels enrolled in the NAFO Regulated Area Exemption Program would be exempt from the monkfish regulations pertaining to permit, minimum mesh size, effort control (DAS) and possession limit rules. Further, monkfish catch from the NAFO Regulated Area would not count against the monkfish total allowable catch, provided: The vessel has on board a letter of authorization issued by the Regional Administrator; except for transiting purposes, the vessel fishes exclusively in the NAFO Regulated Area and does not harvest fish in, or possess fish harvested from, the EEZ; when transiting the EEZ, all gear is properly stowed and not available for immediate use; and the vessel complies with all High Seas Fishing Compliance Permit and NAFO conservation and enforcement measures while fishing in the NAFO Regulated Area. This proposed action would provide additional flexibility to monkfish vessels without compromising the mortality objectives of the FMP.

INCIDENTAL CATCH PROVISIONS

Three adjustments to the monkfish incidental catch limits are proposed. The first adjustment would increase the current 50-lb possession limit to 50 lb per day, or partial day, up to a maximum of 150 lb per trip, for vessels not fishing under a monkfish DAS and fishing with handgear and small mesh (see below), and for NE multispecies limited access vessels that hold a Small Vessel Exemption permit. Small mesh is defined as mesh smaller than the NE multispecies minimum mesh size requirements when fishing in the Georges Bank, Gulf of Maine, and Southern New England Regulated Mesh Areas (RMAs), and mesh smaller than the summer flounder minimum mesh size when fishing in the Mid-Atlantic RMA.

The second adjustment would implement the same incidental monkfish trip limit of 50 lb per day, or partial day, up to a maximum of 150 lb per trip, for vessels fishing with surfclam or ocean quahog hydraulic dredges, and General Category sea scallop vessels fishing with a scallop dredge. These vessels are currently prohibited from retaining monkfish. For the purposes of these new trip limits, a day would be counted starting with the time the vessel leaves port (as recorded in its Vessel Trip Report), or, if the vessel has an operational VMS, when the vessel crosses the VMS demarcation line.

The third monkfish incidental catch limit adjustment would be applicable to vessels fishing with large mesh in the NE Multispecies Mid-Atlantic Exemption Area (an area defined as west of 72° 30' N. long. and which extends eastward around Long Island, NY). This adjustment would increase the current 50-lb possession limit to 5 percent of the total weight of fish on board, up to a maximum of 450 lb, based on tail weight equivalent. These three adjustments are proposed for the purpose of minimizing regulatory discards due to the incidental catch regulations without affecting the overall stock rebuilding program. Additionally, the third adjustment is being proposed to restore the trip limit that was in effect prior to redefining the Mid-Atlantic RMA in the NE Multispecies FMP.

DECREASE IN MINIMUM FISH SIZE

Amendment 2 proposes to reduce the minimum fish size for monkfish in the SFMA to 11 inches tail length, 17 inches total length, from the current limit of 14 inches tail length, 21 inches total length. This change would make the minimum size consistent with that which currently applies in the NFMA, simplifying the FMP rules and improving enforceability. Allowing vessels to retain smaller monkfish would also likely minimize regulatory discards, without jeopardizing conservation objectives.

REMOVAL OF 20-DAY BLOCK REQUIREMENT

Current monkfish regulations require limited access monkfish permit holders to take a 20-day block out of the fishery during April through June each year, paralleling a similar regulation in the NE Multispecies FMP that applies March through May. Amendment 2 proposes to eliminate this requirement, since it imposes an enforcement burden and increases the regulatory burden on monkfish vessels with no apparent biological or economic benefit. This change does not affect the requirement for monkfish vessels that also hold a NE multispecies limited access permit and,

who, therefore, must abide by the NE multispecies 20-day block requirement when fishing under a monkfish/multispecies DAS.

VESSEL BASELINE MODIFICATION

Currently, a vessel is limited to upgrading its vessel permit characteristics by 10 percent of the length and tonnage, and 20 percent of the horsepower of the vessel at the time it was issued a monkfish limited access permit. Since the monkfish limited access program was not implemented until 1999, vessels that also had been issued a prior limited access permit under another FMP, and that also downsized the vessel characteristics (either through a vessel replacement or modifications to the vessel, such as an engine replacement) in the period between the issuance of the two permits, would have two different vessel permit baselines--one for the initial vessel characteristics, and one for the vessel characteristics at the time the monkfish permit was issued. This situation limits the ability of the vessel owner to transfer the permit to another vessel that is within the original upgrading limitations but that exceeds the monkfish permit upgrading limitations, without losing the vessel's monkfish permit. Amendment 2 would provide a one-time opportunity to allow vessel owners to set the monkfish permit baseline at the characteristics of the vessel when it was issued its first Federal limited access permit. Such an adjustment would only be made at the request of the vessel owner, provided such a request is made on or before April 30, 2005, or within 1 year of implementation of the final rule for Amendment 2, if approved, whichever is later.

MODIFICATION OF THE FRAMEWORK ADJUSTMENT PROCEDURES

Amendment 2 proposes three additions to the list of actions that can be taken under the existing framework adjustment procedure: A monkfish DAS Leasing Program; measures to minimize the impact of the fishery on endangered or protected species; and measures to implement bycatch reduction devices. Including these additional measures to the list of frameworkable items could reduce the time required to implement such regulations, which otherwise would have to be done through an FMP amendment process.

A notice of availability (NOA) for Amendment 2 published in the Federal Register on January 3, 2005, with a 60-day comment period ending on March 3, 2005. A proposed rule to implement the measures contained in Amendment 2 published in the Federal Register on January 14, 2005, with a 30-day comment period ending on February 14, 2005. Interested individuals are encouraged to submit comments on Amendment 2 and the proposed rule. However, please be sure to submit comments before the end of the respective comment periods listed above. For further information concerning this article and other issues concerning monkfish, please contact Allison Ferreira at 978-281-9103 or Allison.Ferreira@noaa.gov.